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UNITED STATES DEPARTMENT OF JUSTICE

OFFICE OF THE UNITED STATES ATTORNEY

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

VS.

Case No.

JOHN DOE.

Federal Grand Jury
U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts

Thursday
July 13, 2000

APPEARANCE: WILLIAM F. SINNOTT
Assistant U.S. Attorney

WITNESS: TIMOTHY ANDERSON

APEX Reporting
(617) 426-3077

ORIGINAL

I N D E X

<u>WITNESS</u>	<u>PAGE</u>
Timothy Anderson	
Examination by Mr. Sinnott	13
<u>EXHIBITS</u>	<u>DESCRIPTION</u>
No. 1	Grand Jury transcript dated February 17, 1999, witness Timothy Anderson
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1 Q All right, sir. And, sir, as part of your
2 investigation, what enforcement techniques did you employ to
3 investigate Henderson and Carey and Powers?

4 A Initially we used a confidential source. Once the
5 confidential source made a buy, then we introduced an
6 undercover agent.

7 Q Who was that undercover agent?

8 A Special Agent Rick Guerard.

9 Q And that's G-u-e-r-a-r-d?

10 A That's correct.

11 Q And did you equip the confidential source with any
12 electronic devices?

13 A He was equipped with a transmitter, a --
14 transmitter so we can listen and monitor and record
15 conversations between the confidential source and any of the
16 targets.

17 Q All right, sir. Now let me direct your attention,
18 if I might, to October 19th, 1998, and ask you if an
19 operation took place on that particular date?

20 A Yes, it did.

21 Q Could you describe for the Grand Jurors what
22 happened on that date?

23 A On that date, the confidential source made
24 arrangements through Powers and Carey to buy an ounce of
25 rock cocaine at 6 Denny Street. We met with the

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1 confidential source, we briefed him as to what we wanted to
2 do with him.

3 We searched him for any money, any contraband that
4 he may have had on him. He was given \$1200 government funds
5 to make the purchase of the crack cocaine. And he was also
6 equipped with a moni -- the transmitter, the monitoring
7 device.

8 Once that was all done, the CS was sent to 6 Denny
9 Street, he went in and made contact with Kim Powers and
10 Robert Carey, Sr. Carey was on the phone with the source at
11 the time, who was Butter.

12 When he went in, the CS, confidential source,
13 showed Kim Powers the money, the \$1200. At that time I
14 believe they went to the back bed -- or the bedroom in the
15 apartment. About five minutes later, Carey received a
16 telephone call from the source, Butter, said he'd be over in
17 about five minutes.

18 Surveillance was established on the house. I
19 observed a male, black, walk down Denny Street, enter in
20 6 Denny. A few minutes later the CS came out, met with
21 Agent Guerard, and they went to a predetermined location. I
22 stayed there and I observed the male, black, identified as
23 Butter, come out of the residence, walk down Denny Street to
24 Highland Street, and make a telephone call. And then we
25 lost sight of him.

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1 Q All right, sir. And, sir, the substance that
2 Butter, as you've described him, gave to the CS, was that at
3 any time analyzed?

4 A Yes, it was.

5 Q And what were the results of that analysis?

6 A Came back from the Northeast Regional Lab as
7 23.7 grams of crack cocaine.

8 Q All right, sir. And, sir, let me direct your
9 attention to October 27th, 1998, and ask you if another
10 transaction took place as part of this investigation?

11 A Yes, it did.

12 Q And describe that for the Grand Jurors.

13 A Okay. Again, the CS was -- we met the CS, he was
14 searched again. Every time we'd meet with him, he's
15 searched for contraband or money. If he has money, we take
16 it from him and hold it temporarily. He's equipped with a
17 monitoring device and he's given funds for purchase.

18 On this particular day, the CS met Powers at the
19 Denny Street, he had arranged to purchase 3 ounces of crack
20 cocaine. The CS was observed going into 6 Denny Street by
21 myself and Special Agent Guerard.

22 At this time Agent Guerard was acting in an
23 undercover capacity, so he was sitting in the area of
24 6 Denny Street. The CS went in, got Kim Powers, they walked
25 out to the undercover vehicle. The UC got in the --

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1 confidential source got in the rear seat, Kim Powers got
2 into the front seat. Special Agent Guerard handed Powers
3 \$3,000 of government funds for the purchase. She counted it
4 and then instructed Agent Guerard to drive a couple of
5 blocks down on Highland Street to a parking lot of a Cafe
6 Bravo in Worcester.

7 Q And what happened at that time?

8 A At that time the undercover parked the vehicle,
9 Powers and the confidential source got out of the vehicle
10 and were observed walking down the street and entering
11 27 Wachusett Street in Worcester.

12 Q Okay. And what happened after the CS, along with
13 Powers, entered 27 Wachusett Street?

14 A According to the confidential source, the
15 confidential source and Powers went down to the basement
16 area of that building, where they were met by Butter, who
17 was identified as the same person who delivered the first
18 package.

19 He came downstairs, Powers showed him the money,
20 and then he went upstairs. The confidential source thought
21 it was maybe the second floor, he wasn't sure. He was only
22 gone briefly. Butter came back downstairs with a package,
23 it was a newspaper with a plastic bag that contained crack
24 cocaine, gave it to the CS. The CS walked out of the
25 building, got -- walked to the undercover vehicle, got into

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1 the vehicle, and the undercover the confidential source
2 left.

3 Q And at some point did the CS give that substance
4 to DEA agents?

5 A He initially gave it to Undercover Guerard.

6 Q Okay. And was that substance purchased on that
7 date subsequently analyzed?

8 A Yes.

9 Q And what were the results?

10 A According to the Northeast Regional Lab, it
11 contained 73.2 grams of crack cocaine.

12 Q All right, sir. Now let me direct your attention
13 to November 3rd of 1998, and ask you if the investigation
14 continued on that date?

15 A Yes, it did.

16 Q What happened on that date, sir?

17 A Basically, it happened the same as the previous
18 buy. The CS was met, searched, given a transmitter, given,
19 I believe, \$3,000 in government funds to make a purchase of
20 3 ounces of crack cocaine.

21 The CS went into 6 Denny Street, again, met with
22 Powers. They came out, they got into the undercover
23 vehicle again with Special Agent Guerard. Again, he was
24 instructed to drive to the Cafe Bravo parking lot, which
25 they did.

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1 Once there, the CS and Powers were observed.
2 again going into 27 Wachusett Street. Again, according to
3 the confidential source, they went down to the basement
4 area. This time they were met there by Butter. He was
5 shown the money, he had the package on him this time, he
6 didn't run upstairs. He gave the package to the
7 confidential source, he was given the money, and the CS
8 exited 27 Wachusett.

9 I believe this time Kim Powers stayed behind until
10 after the confidential source left.

11 Q All right. And after the confidential source
12 left, did he meet Special Agent Guerard again?

13 A Yes, he did.

14 Q And where did that take place?

15 A He met right back at the Cafe Bravo, he got right
16 back into the vehicle. Undercover Agent Guerard was waiting
17 in the parking lot in the vehicle.

18 Q And was that substance that he purchased on that
19 date subsequently analyzed?

20 A Yes.

21 Q And what was it found to be?

22 A It was found to contain 81.09 grams of crack
23 cocaine.

24 Q All right, sir. Now let me direct your attention
25 to November 16th of 1998, and ask if the investigation

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1 continued on that date?

2 A Yes.

3 Q What happened on November 16th, 1998?

4 A Again, the CS made arrangements with Powers and
5 Butter to purchase 3 ounces of crack cocaine. The CS was
6 met by myself and Undercover Agent Guerard, he was searched,
7 equipped with a monitoring device and given \$3,000 of
8 government funds to make the purchase. He was briefed as to
9 what to do.

10 He was observed going -- walking into 6 Denny
11 Street. He was observed coming out with Powers. They were
12 -- Powers and the confidential source got in the undercover
13 vehicle.

14 At this time Powers told Special Agent Guerard
15 that the meeting spot was changed, this time the meet was
16 going to be on the street at the corner of Dicks and Denny
17 Street, that's where the meet was going to take place.

18 Powers told Agent Guerard to drive up the street
19 and pull over, which he did. The CS, the confidential
20 source, and Powers got out of undercover vehicle, walked up
21 to the corner and just around the corner on Dicks and Denny,
22 and they were met there by Butter.

23 At this time Butter was given the \$3,000
24 government funds, he handed the, I believe it was a paper
25 bag that contained a plastic bag, that contained what was

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1 allegedly to be crack cocaine, to the confidential source.

2 Butter walked away, the UC or the confidential source again

3 walked down to the undercover vehicle, got in with Special

4 Agent Guerard and left the area.

5 Q And shortly after leaving the area, did they have
6 occasion to examine the substance?

7 A Yes.

8 Q And what did they determine?

9 A It was determined by Undercover Guerard,

10 Undercover Agent Guerard that the plastic bag contained a

11 milky, white colored rocklike substance, but it had a sweet

12 aroma to it, and it turned out to be wax.

13 Q And did subsequent analysis confirm that estimate
14 that it was wax?

15 A It did.

16 Q Now, after Special Agent Guerard and the CS
17 analyzed this substance that evening, did they take some
18 further action?

19 A Yes.

20 Q What happened?

21 A The CS was sent back into 6 Denny Street to make
22 -- try to make contact again with Kim Powers, but this time
23 she wasn't there, and Robert Carey spoke to the confidential
24 source, told him that Powers wasn't there, that Powers was
25 with Butter at Butter's residence, and that he had -- he

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1 didn't know anything that was going on.

2 Q Okay. And what happened after that?

3 A The CS left, he went back to the undercover
4 vehicle. About fifteen minutes later he was sent back in,
5 he was told by Carey, I believe that Butter had called or
6 Carey had called Butter, and Butter had told Carey that he
7 was going to make good on the deal and that arrangements
8 were made by Carey to call the undercover phone that Agent
9 Guerard had.

10 The call was made and Butter told the undercover
11 that he would make the deal good by providing an ounce of
12 crack the next day.

13 And the following day, two days later, we were
14 provided another 2-1/2 ounces of crack to make the deal
15 good.

16 Q Okay. And having made these assurances, did they
17 have any further conversation that evening?

18 A No.

19 Q All right. And directing your attention now to
20 the following day, November 17th, 1998, what happened on
21 that date?

22 A The CS made arrangements with Henderson and Powers
23 to get the one ounce of crack cocaine. The CS was told by
24 Butter to meet on Goulding Street, which is the next street
25 over from Denny Street, that's one street south off of

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1 Highland.

2 The CS was walking down Goulding, Goulding Street,
3 he was met by Powers walking in the opposite direction. As
4 they passed, they stopped for a few seconds. Powers handed
5 the confidential source a package, and that package was
6 taken by -- he met, I believe it was Agent Guerard, who took
7 custody of the crack cocaine.

8 Q All right. And the substance that was purchased
9 or delivered on November 17th, 1998, was that analyzed?

10 A Yes.

11 Q And what was that found to be?

12 A 19.68 grams of crack cocaine.

13 Q All right, sir. Now, Special Agent Anderson,
14 after this investigation was over and the targets had been
15 arrested, did you have a conversation with the CS concerning
16 an allegation of drug use on his behalf during this
17 investigation?

18 A Yes.

19 Q And what did you find out from the CS?

20 A The confidential source told me that between the
21 first and second buy, that he was at his residence, Powers
22 was there, and the confidential source's girlfriend,
23 Christine Byrne, were in the apartment, they all smoked
24 crack before, they're all friends or acquaintances.
25 Byrne, Christine Byrne and the CS had lived together for a

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1 while.

2 On that particular occasion, he didn't know the
3 specific date, Byrne and Powers wanted to buy -- wanted to
4 smoke. So what they came up with is, since Powers owed
5 Butter a large amount of money, he wouldn't front her or
6 give her anything.

7 So what they decided to do was have the
8 confidential source call Butter or meet Butter at a
9 location. I believe it was -- the confidential source told
10 me it was on Dicks Street and Denny Street, up in that same
11 area, where Butter fronted the confidential source a \$40
12 piece of rock cocaine.

13 Q And what did he do with that rock cocaine?

14 A He told me that they went -- he went back to the
15 apartment, and he, Byrne and Powers smoked the rock.

16 Q All right. Now, sir, let me direct your attention
17 to January 17th, 1999, and ask if you previously testified
18 before a Federal Grand Jury?

19 A Yes.

20 Q All right, sir. And let me show you this
21 transcript and ask you if you recognize this transcript?

22 A Yes.

23 Q What do you recognize that to be, sir?

24 A Testimony from the previous Grand Jury.

25 Q And you've examined that transcript before have

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1 you not?

2 A Yes, I have.

3 MR. SINNOTT: Mr. Foreman, at this time I'd move
4 to introduce this as an exhibit, it's a Grand Jury
5 transcript dated February 17th, 1999, witness Timothy
6 Anderson.

7 Thank you.

(Grand Jury Exhibit No. 1 marked.)

9 Q BY MR. SINNOTT: Now, Special Agent Anderson, have
10 you had occasion during the course of this investigation and
11 subsequent to this investigation to observe the surrounding
12 area as to -- in relationship to where the deals were made
13 in this case?

14 A Yes.

15 Q And, sir, did it come to your attention during the
16 investigation and subsequently that there was a school in
17 the area?

18 A Yes.

19 Q Could you describe for the Grand Jurors what you
20 discovered?

21 A There's an elementary school approximately --
22 well, actually, the furthest away from any of the deals,
23 from 27 Wachusett Avenue, it's four blocks. The other deals
24 at Goulding Street and Denny Street are two and three
25 blocks, respectively, away from the elementary school.

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1 Q All right, sir. And that elementary school, is
2 that the Elm Street Community School?

3 A Yes, it is.

4 Q So, sir, with respect to each of these
5 transactions that you've described, did each of them take
6 place within 1,000 feet of the Elm Street Community School?

7 A Yes.

8 Q All right, sir.

9 MR. SINNOTT: And, sir, I have no further
10 questions at this time.

11 Do any of the Grand Jurors have any factual
12 questions for Special Agent Anderson?

13 Yes, sir.

14 GRAND JUROR: Special Agent, when you--when your
15 CS is doing a buy, you've got stiffed in that one where you
16 got the wax, isn't general practice to test it first
17 yourself, put it on your tongue or something, I don't know.

18 THE WITNESS: No. No, what we do is when he made
19 the purchase, he doesn't touch it, the confidential source
20 doesn't touch the drugs at all. He'll make the purchase
21 and he'll bring it right back to the agents. He's told,
22 don't, don't open it, don't do anything to it, just take it,
23 take custody of it and go directly to where you're told to
24 go.

25 When we have the briefing, when we first meet him,

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1 we tell him, if this happens, this is what you do. All
2 right? If everything goes well, what you'll do is you'll
3 make the buy, he'll leave, the target with leave, and you'll
4 come right back to where we tell you to go, which is right
5 to the undercover vehicle, in that case.

6 He took possession of the drugs, put it in his
7 pocket and walked right back to the undercover vehicle and
8 gave it to Agent Guerard. Agent Guerard opened it. As soon
9 as you open the plastic bag, you can smell it. And if
10 you're around crack or coke long enough, it's got a
11 particular odor to it, because of the chemicals they use to
12 cook it and mix it, it has a particular odor. This one had
13 a sweet aroma, and you could tell just by squeezing it and
14 smelling it that it's wax.

15 There's also a field test we do on it, we take a
16 very small piece, put it in a container and you break the
17 vials, and depending on the colors that change, it's a
18 presumptive test that it's crack cocaine, this had nothing.

19 GRAND JUROR: So the target wouldn't get
20 suspicious in this case?

21 THE WITNESS: No, he wouldn't know what was going
22 on, everything went as planned.

23 MR. SINNOTT: Yes, sir.

24 GRAND JUROR: What about the time that he did not
25 comply with your orders, the CS?

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1 THE WITNESS: When he what?

2 GRAND JUROR: Went and smoked the crack.

3 THE WITNESS: Well, we found out after, it was
4 after everybody was arrested.

5 GRAND JUROR: What consequences does that -- would
6 that ---

7 THE WITNESS: He could -- that depends on what the
8 Agency will do. We can deactivate him. He knows he wasn't
9 supposed to do it.

10 Q BY MRS SINNOTT: Let me ask you this, Special
11 Agent: That occasion, was that in connection with one of
12 the transactions in this case or was that a separate ---

13 A That was separate from what we were doing with
14 him.

15 Q So he was not under surveillance at the time?

16 A Right. He was not under our control at the time,
17 he was --- he was living -- you know, he lives with his
18 girlfriend at the time, and Powers lived a block away, and
19 they all know each other. And we weren't doing anything
20 between the first and second buys with him. He knows
21 there's certain rules and regulations he has to follow when
22 he's not with us.

23 Q And it's fair to state he did not have an
24 electronic ---

25 A No.

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1 Q --- device on him at that time, either?

2 A No. If he was out on the street and was caught

3 buying, buying the rock cocaine that he did get, he could

4 get locked up and there's nothing he could do about it. He

5 was not under our control at that time.

6 MR. SINNOTT: Any other questions?

7 Yes, sir.

8 GRAND JUROR: Agent, was surveillance undertaken

9 on all these drug transactions, on every single one of

10 them?

11 THE WITNESS: Every time that we made a buy with

12 these targets, there was surveillance, either at Denny

13 Street or at Wachusett Street.

14 MR. SINNOTT: Any other questions?

15 GRAND JUROR: This transcript, I looked through

16 it, it's basically the same testimony he just gave just now,

17 isn't it?

18 MR. SINNOTT: It's pretty close.

19 GRAND JUROR: All right.

20 MR. SINNOTT: Yes. I think you'll find that, if

21 you go through it, he's added some additional things that

22 have come to light since that occasion.

23 Any other questions.

24 All right, with your permission, I'll excuse the

25 witness.

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1 GRAND JUROR: Sure.

2 MR. SINNOTT: Thank you.

3 (Whereupon, the witness was excused.)

4 (Whereupon, at 1:55 p.m., July 13th, 2000, the

5 above matter was concluded.)

CERTIFICATE OF REPORTER

This is to certify that the attached proceeding
before: A FEDERAL GRAND JURY
in the Matter of:

UNITED STATES OF AMERICA

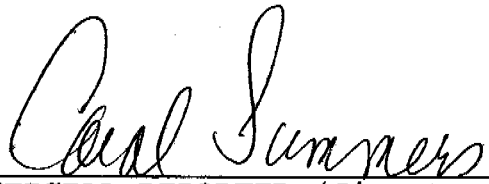
VS.

JOHN DOE

Place: Boston, Massachusetts

Date: June 13, 2000

were held as herein appears, and that this is the original
transcript thereof.


OFFICIAL REPORTER (Signature)
Carol Summers